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Before the  
Federal Communications Commission  
Washington, D.C. 20554

PR Docket No. 93-267 ✓

In the Matter of

Amendment of the Amateur Service  
Rules to Extend Temporary Operating  
Authority to New Amateur Operators.

RM-8288

**NOTICE OF PROPOSED RULE MAKING**

Adopted: October 21, 1993; Released: November 4, 1993

Comment Date: January 10, 1994

Reply Comment Date: February 10, 1994

By the Commission:

**I. INTRODUCTION**

1. On June 28, 1993, the Western Carolina Amateur Radio Society/VEC, Inc. (Wescars) filed a petition (RM-8288) for amendment of the amateur service rules. Wescars asks for a rule that would grant immediate temporary operating authority to persons who pass the examinations for a new amateur operator license. In response to the petition, we propose to amend the rules to provide such temporary operating authority.

**II. BACKGROUND**

2. Section 97.9 of the Commission's Rules, 47 C.F.R. § 97.9, currently authorizes immediate temporary operating privileges to amateur operators who upgrade their class of license.<sup>1</sup> An amateur operator who has passed the required examination, and who has properly submitted to the volunteer examiners (VEs) an application for the higher class of operator license, is authorized to exercise the rights and privileges of the higher class license immediately. A Certificate of Successful Completion of Examination (CSCE)<sup>2</sup> is the visible evidence of the applicant's operating authority until receipt of the license. This procedure allows successful examinees to enjoy their new privileges immediately. The procedure, however, does not apply to those successful examinees who do not already hold a valid license. A new amateur operator must wait several weeks for the applica-

tion to be processed and a license granted before commencing operation. Resources that would otherwise be required to respond to inquiries from the applicants concerning processing status, moreover, can be applied to other licensing tasks.

**III. DISCUSSION**

3. In support of its petition, Wescars states that by providing immediate temporary operating authority to all successful examinees, the Commission would be rendering a great service to new members of the amateur service community.<sup>3</sup> With such authority, a person who passes the examinations would not have to wait to receive the license (from four to eight weeks) before commencing operation. Wescars also states that providing temporary operating authority would result in cost savings for the Commission because there would be a reduction in the number of inquiries by persons checking on the status of their license applications. Amateur operator license applicants make approximately 11,000 status inquiries annually. Answering such inquiries diverts resources from the processing of license applications.

4. To better serve new amateur operators and to increase productivity in the processing of license applications, we propose to amend Section 97.9 to extend temporary operating authority to new successful examinees until receipt of the full-term license.<sup>4</sup> The temporary operating authority, however, would not be available to any prior amateur service licensee whose license was revoked, suspended, or surrendered for cancellation following notice of revocation, suspension, or monetary forfeiture proceedings. Nor would it be available to any person who is the subject of a cease and desist order that relates to amateur service operation and which is still in effect. Language to cover these restrictions is contained in the proposed rules. Neither would it authorize any station operation that may have a significant environmental effect as defined by Section 1.1307 of the Commission's Rules, 47 C.F.R. § 1.1307. Also, the temporary authority would terminate, if the application is returned without action. In addition, the proposed rules provide that the Commission, in its discretion, may cancel the temporary operating authority without a hearing, if the need for such action arises.

5. Under Section 4(f)(4)(B) of the Communications Act, 47 U.S.C. § 154(f)(4)(B), we accept and employ the services of volunteers to administer amateur operator license examinations. Section 97.17(c) of the Commission's Rules, 47 C.F.R. § 97.17(c), requires the administering VEs to receive, as part of administering an examination, on behalf of the Commission, the application from the applicant.<sup>5</sup> The filing requirement contained in Section 308(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 308(a), therefore, is satisfied.<sup>6</sup> Moreover, there is ample precedent for enacting rules that provide for conditional operation of

<sup>1</sup> During 1992, 24,441 amateur operators upgraded their class of license.

<sup>2</sup> In the amateur service, a CSCE is issued by volunteer examiners (VEs) to each examinee who passes an examination element.

<sup>3</sup> During 1992, 44,738 persons passed the examinations for new amateur operator licenses.

<sup>4</sup> In its petition, Wescars would have the temporary operating authority be valid for 365 days. We propose, however, to limit the temporary authority to 120 days because a full-term license

would normally be issued within that time. It is an indication that the application was not received for processing when a license is not issued within 120 days.

<sup>5</sup> Sections 97.511(e) and 97.519(b), 47 C.F.R. §§ 97.511(e) and 97.519(b), regulate the delivery of the applications of successful examinees from the administering VEs to the Commission.

<sup>6</sup> Section 308(a) of the Communications Act, 47 U.S.C. § 308(a), provides that a station license may only be granted upon receipt by the Commission of a written application.

a private radio station pending final grant of an application. We previously have adopted rules to permit applicants in the Citizens Band Radio Service,<sup>7</sup> the Maritime Services,<sup>8</sup> and the Private Land Mobile Radio Services<sup>9</sup> to engage in temporary operation pending final grant of their applications. In those instances, the Commission found that such a procedure would advance significant public interest objectives.

6. For purposes of over-the-air identification, we propose that stations that are operated by a new control operator exercising temporary operating authority shall use a temporary call sign determined by the person's initials and mailing address. The prefix for each such call sign would be WZ. This unique prefix would identify the station as a new amateur station awaiting a license. The prefix would be followed by the number corresponding to the VEC Region for the mailing address shown on the license application.<sup>10</sup> The person's initials and an indicator denoting the license class would follow the VEC Region number.<sup>11</sup> We believe this system would be useful to the amateur community, yet practical to implement.

7. In accordance with the foregoing discussion, we propose to amend the amateur service rules to extend temporary operating authority to persons who pass the examinations for a new amateur operator license. Comments are invited on this proposal.

#### IV. PROCEDURAL MATTERS

##### Ex Parte Rules -- Non-Restricted Proceeding

8. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

##### Regulatory Flexibility Act

9. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because, if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The amateur stations that are the subject of this proceeding would not be authorized to transmit any communications where the station licensee or control operator has a pecuniary interest. See 47 C.F.R. § 97.113(a)(3). The Secretary shall send a copy of this Notice, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1980).

#### Comment Dates

10. Authority for issuance of this Notice is contained in Sections 4(i), 303(r), 307(a), and 308(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 307(a), and 308(a). Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415 and 1.419, interested parties may file comments on or before **January 10, 1994**, and reply comments on or before **February 10, 1994**. To file formally in this proceeding, you must file an original and four copies of all comments and reply comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

11. For further information, call Maurice J. DePont, Private Radio Bureau, (202) 632-4964.

#### FEDERAL COMMUNICATIONS COMMISSION



William F. Caton  
Acting Secretary

#### APPENDIX

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

##### Part 97 - Amateur Radio Service

1. The authority citation for Part 97 continues to read as follows:

**Authority citation: 48 Stat. 1066, 1082, as amended; 47 U.S.C. §§ 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. §§ 151-155, 301-609, unless otherwise noted.**

2. In Section 97.5, paragraphs (a), (b), and (c) are revised to read as follows and a new paragraph (d)(7) is added to read as follows:

##### § 97.5 Station license required.

(a) When a station is transmitting on any amateur service frequency from a geographic location within 50 km of the Earth's surface where the amateur service is regulated by

<sup>7</sup> 41 Fed. Reg. 15849 (1976).

<sup>8</sup> 70 FCC 2d 863 (1979).

<sup>9</sup> Conditional Authorization Procedure for Proposed Private Land Mobile Radio Service Stations, 4 FCC Rcd 8280, 8283 (1989).

<sup>10</sup> The VEC regions are listed in Appendix 2 of Part 97, 47

C.F.R. Part 97, Appendix 2.

<sup>11</sup> For example, applicant John Doe, who passed an examination for a General Class operator license, living in Quincy, Illinois, would use the temporary call sign WZ9JZD/AG. See Appendix, § 97.119 (e) and (g).

the FCC, the person having physical control of the apparatus must have a written authorization recognized by the FCC for an amateur station.

(b) When a station is transmitting on any amateur service frequency from a location within 50 km of the Earth's surface and aboard any vessel or craft that is documented or registered in the United States, the person having physical control of the apparatus must have a written authorization recognized by the FCC for an amateur station.

(c) When a station is transmitting on any amateur-satellite service frequency from a location more than 50 km above the Earth's surface aboard any craft that is documented or registered in the United States, the person having physical control of the apparatus must have a written authorization recognized by the FCC for an amateur station.

(d) \* \* \*

(7) A CSCE indicating that the person has passed the necessary examinations for a new amateur operator license within the previous 120 days, *provided that*:

(i) The person has properly filed with the administering VEs an application, received on behalf of the FCC, for a new operator/primary station license that the FCC has not yet acted upon;

(ii) The person is not a prior amateur service licensee whose license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension, or monetary forfeiture proceedings;

(iii) The person is not the subject of a cease and desist order that relates to amateur service operation and which is still in effect;

(iv) The temporary authority ceases immediately, if the application is returned without action;

(v) No temporary authority is authorized if the operation of the station may have a significant environmental effect, as defined by § 1.1307 of this chapter; and

(vi) The temporary authority is accepted with the express understanding that such authority may be modified or cancelled at any time without hearing if, in the FCC's discretion, the need for such action arises.

\* \* \* \* \*

3. Section 97.7 is amended by adding a new paragraph (d) to read as follows:

**§ 97.7 Control operator required.**

\* \* \* \* \*

(d) A CSCE indicating that the person has passed the necessary examinations for a new amateur operator license within the previous 120 days, *provided that*:

(1) The person has properly filed with the administering VEs an application, received on behalf of the FCC, for a new operator/primary station license that the FCC has not yet acted upon;

(2) The person is not a prior amateur service licensee whose license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension, or monetary forfeiture proceedings;

(3) The person is not the subject of a cease and desist order that relates to amateur service operation and which is still in effect;

(4) The temporary authority ceases immediately, if the application is returned without action; and

(5) No temporary authority is authorized if the operation of the station may have a significant environmental effect, as defined in § 1.1307 of this chapter; and '

(6) The temporary authority is accepted with the express understanding that such authority may be modified or cancelled at any time without hearing if, in the FCC's discretion, the need for such action arises.

4. Section 97.9 is amended by adding a new paragraph (c) to read as follows:

**§ 97.9 Operator license.**

\* \* \* \* \*

(c) A person not holding a valid amateur operator license who has properly filed with the administering VEs an application, received on behalf of the FCC, for a new operator/primary station license that the FCC has not yet acted upon, and who holds a CSCE indicating that the person has passed the necessary examinations within the previous 120 days, is authorized the frequency privileges specified in § 97.301 for the operator class for which application was made, *provided that*:

(1) The person is not a prior amateur service licensee whose license was revoked, suspended for less than the balance of the license term and the suspension is still in effect, suspended for the balance of the license term and relicensing has not taken place, or surrendered for cancellation following notice of revocation, suspension, or monetary forfeiture proceedings;

(2) The person is not the subject of a cease and desist order that relates to amateur service operation and which is still in effect;

(3) The temporary authority ceases immediately, if the application is returned without action; and

(4) No temporary authority is authorized if the operation of the station may have a significant environmental effect, as defined in § 1.1307 of this chapter; and

(5) The temporary authority is accepted with the express understanding that such authority may be modified or cancelled at any time without hearing if, in the FCC's discretion, the need for such action arises.

5. Section 97.119 is amended by revising paragraph (e) and adding a new paragraph (g) to read as follows:

## § 97.119 Station identification.

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(e) When the control operator is a person who is exercising the rights and privileges authorized by § 97.9 (b) or (c), an indicator must be included after the call sign as follows:

(1) For a control operator who has requested a new Novice Class license: No indicator;

(2) For a control operator who has requested a new Technician Class license or a license modification from Novice Class operator to Technician Class: KT;

(3) For a control operator who has requested a new General Class license or a license modification from Novice Class or Technician Class operator to General Class: AG;

(4) For a control operator who has requested a new Advanced Class license or a license modification from Novice, Technician, or General Class operator to Advanced Class: AA; or

(5) For a control operator who has requested a new Amateur Extra Class license or a license modification from Novice, Technician, General, or Advanced Class operator to Amateur Extra Class: AE.

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(g) When the station is transmitting under the authority of § 97.5(d)(7), the call sign must consist of the following in sequential order:

(1) The prefix WZ;

(2) The numeral for the VEC Region for the mailing address given in the license application filed by the person;

(3) The initial of the person's first name;

(4) The initial of the person's first middle name, or the letter Z, if the person has no middle name;

(5) The initial of the person's last name; and

(6) The indicator required by paragraph (e) of this section.